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Attorneys for All Defendants

**IN THE DISTRICT COURT OF THE UNITED STATES OF AMERICA**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**SAN JOSE DIVISION**

JERMAINE MONTIEL,  
*Plaintiff,*  
v.  
OFFICER M. WILLIAMS, BADGE NO. 3751,  
individually and in his capacity as a San Jose police  
officer; SERGEANT C. SHEPPARD, BADGE  
NO. 3125, individually and in his capacity as a  
San Jose police officer and supervisor; OFFICER  
HERNANDEZ, BADGE NO. 3898, individually  
and in his capacity as a San Jose police officer;  
OFFICER RODRIGUEZ, BADGE NO. 3087,  
individually and in his capacity as a San Jose police  
officer; JOHN DOE and RICHARD ROE,  
individually and in their capacities as San Jose  
police officers, the true names and exact numbers

No. C 07 05490 JF

**JOINT CASE MANAGEMENT  
STATEMENT**

Date: 22 February 2008  
Time: 10:30 A.M.  
Courtroom: 3  
Judge: Honorable Jeremy Fogel

Joint Case Management Conference Statement  
C 07 05490 JF

1 of whom are unknown at this time; ROBERT )  
 2 DAVIS, individually and in his capacity as Chief )  
 3 of Police for the City of San Jose; CITY OF SAN )  
 JOSE, a municipal corporation, )  
*Defendants.* )

4  
 5 The parties to the above-entitled action jointly submit this Joint Case Management  
 6 Statement and Proposed Order and request the Court to adopt it as its Case Management Order  
 7 in this case, pursuant to Federal Rule of Civil Procedure 16 and Civil Local Rule 16-10(b).

## 8 9 10 **JOINT CASE MANAGEMENT STATEMENT**

### 11 12 **A. Description of the Case:**

#### 13 **1. The underlying events:**

14 On 26 August 2006, plaintiff Jermaine Montiel took his friend, Brandon Adam, to Kaiser -  
 15 Santa Teresa Hospital because Mr. Adam had been stabbed. While at the emergency room, Mr.  
 16 Adam became uncooperative, and eventually San Jose police arrived at the scene. As a result of  
 17 what he saw with respect to the police interaction with his friend, Mr. Montiel approached the  
 18 officers and was eventually taken to the ground by several officers. Mr. Montiel was injured, and  
 19 transported to Valley Medical Center where he was treated. Mr. Montiel was arrested and charged  
 20 with violation of California Penal Code section 647, subdivision (f), so-called "drunk in public", and  
 21 taken to jail.

22 Upon release the next day, Mr. Montiel went to O'Connor Hospital where it was discovered  
 23 that he had a fractured arm.

24 Mr. Montiel was charged with drunk in public and delaying and obstructing an officer.  
 25 Eventually all charges were dismissed.

1           **2. The principal factual issues which the parties dispute:**

2           a. Whether Mr. Montiel was intoxicated.

3           b. Whether Mr. Montiel and/or Mr. Adams were creating a disturbance in the

4 Kaiser Santa Teresa Emergency Room on the evening of the event.

5           c. Whether Mr. Montiel resisted and delayed the police in their attempt to subdue

6 Mr. Adams.

7           d. Whether the officers' conduct caused Mr. Montiel to suffer harm or injury.

8           e. Whether the officers wrote false police reports.

9           f. Whether there is a custom or practice within the San Jose Police Department to

10 make arrests for violation of California Penal Code section 647, subdivision (f), when no probable

11 cause exists but instead for some improper purpose.

12           g. Whether San Jose police officers are adequately trained in the elements of

13 California Penal Code section 647, subdivision (f), and how to recognize the elements and determine

14 if they apply to a particular defendant.

15           h. Whether the San Jose Police Department adequately monitors and supervises its

16 officers regarding arrests for violation of California Penal Code section 647, subdivision (f).

17  
18           **3. Principal legal issues in dispute.**

19           a. Whether there was probable cause to arrest Mr. Montiel.

20           b. Whether the officers used excessive force against Mr. Montiel.

21           c. Whether Defendant City is liable under *Monell*.

22  
23           **4. Other issues**

24           None

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1 **5. Unserved parties**

2 All of the named parties have been served.

3

4

5 **6. Additional parties whom the parties intend to join**

6 None

7

8 **B. Consent to Magistrate Judge for Trial**

9 The parties do not consent to assignment of this case to a United States Magistrate Judge.

10

11 **C. Alternative Dispute Resolution**

12 The parties agree to participate in a settlement conference before Magistrate Judge Seeborg.

13

14 **D. Voluntary Disclosures**

15 The parties will provide initial disclosures no later than 7 March 2008.

16

17 **E. Discovery**

18 **1. The parties agree to the following discovery plan**

19 Subject to modification pursuant to stipulation or Court Order:

20

21 **1. Depositions:** Limit: 10 per side.

22 **2. Interrogatories:** Limit: 25 per side. Plaintiff will be allowed 25 interrogatories on  
23 each defendant.

24 **3. Requests for Production of Documents:** Limit: A reasonable number of  
25 carefully tailored requests.

26

27

1 **4. Requests for Admissions:** Limit: 25 per side. Plaintiff will be allowed 25  
2 requests on each defendant.

3  
4 **F. Damages**

5 Plaintiff has suffered special and general damages in an amount to be determined.

6 **G. Trial schedule**

7 The parties believe it is too early for the Court to set a trial date. The parties suggest that a  
8 further case management conference be calendared in 120 days for the purpose of setting a trial date.  
9 The parties anticipate that the trial will last 5 to 8 days.

10  
11 Dated: 20 February 2008

LAW OFFICES OF ANTHONY BOSKOVICH

12  
13 By: 

14 Anthony Boskovich  
15 Attorney for Plaintiff JERMAINE MONTIEL

16 Dated: 20 February 2008

OFFICE OF THE CITY ATTORNEY

17  
18 By: \_\_\_\_\_

/s/

19 Michael Groves  
20 Attorney for Defendants

21  
22 **IT IS SO ORDERED.**

23  
24 Dated: \_\_\_\_\_

25 Honorable Jeremy Fogel  
26 Judge of the United States District Court